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SUMMARY RECORD OF THE 634th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 26 May 2000, at 3 p.m.

Chairperson: Ms. OUEDRAOGO

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GE.00-42510 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Malta (continued) (CRC/C/3/Add.56; CRC/C/Q/MAT/1; written replies of the Government of Malta to the questions raised in the list of issues (document without a symbol distributed in the meeting room in English only))

1 At the invitation of the Chairperson, the members of the delegation of Malta resumed places at the Committee table.

2 The CHAIRPERSON invited the members of the Committee to put questions to the delegation concerning special protection measures and follow-up questions to earlier chapters.

3 Mr. DOEK asked for clarification of the implementation of the sentencing procedure referred to in paragraph 294 of the report. He wished to know what proportion of a detention period or a fine was represented by the decrease of one or two degrees of a sentence handed down in respect of a child between 14 and 18 years of age. As a life sentence had never been imposed on a child, he suggested that life imprisonment should be struck from the statute book insofar as it related to juveniles. Did the fact that 75 per cent of cases involving juvenile offenders in 1994 had been old cases mean that recidivism was high? It had also been stated that parents of a child offender aged 9-14 could be found liable and punished. How was that procedure implemented and what was the philosophy behind it?

4 Ms. RILANTONO, noted that there was an alarming incidence of obesity, disabilities and congenital abnormalities in Malta. Also, according to a World Health Organization (WHO) report 14 per cent of pregnancies produced babies weighing over 4 kilos, which meant that there was a genetic predisposition to diabetes. The Maltese Health Vision 2000 programme had identified the need to step up genetic screening. However, providing genetic screening free of charge would be an expensive venture. While child labour was prohibited by law, she asked whether there were no under-age children working in family businesses or in the tourist trade. Children aged 15-18 were prevented from working between 10 p.m. and 7 a.m., which implied that they could work during the daytime, precisely when they should be at school. She would welcome comment from the delegation in that regard.

5 Mr. RABAH, reverting to the juvenile justice system, asked whether children were held in ordinary prisons or in detention centres, and what the daily lives of inmates in such institutions were like. Were there specific problems in relation to young female offenders?

6 Ms. KARP asked why 16 had been made the age beyond which children did not enjoy the protection of the juvenile courts, when the Convention clearly stated that the age of protection ended after 18. Rather than a matter of public order, the cut-off age of 16 appeared to be a fixed idea with historical overtones. In her experience young people in the 16-18 age group, even those who had committed serious crimes, usually enjoyed protective measures before the courts. Accordingly, had the authorities considered applying special protection measures to children up to the age of 18?

7 Mr. FULCI said that alcohol consumption among young people appeared to have reached alarming proportions in Malta, especially in the 15-18 age group, and appeared to be socially acceptable. Children actually drank beer in front of the schools and misbehaved as a result. He wished to know what had become of the 1996 "Zazu" campaign against alcohol consumption by young people. Had it increased or diminished alcohol consumption?

8 Ms. TIGERSTEDT-TAHTELA asked what the drinking habits of adult Maltese were and what sort of example they set for the country's youth.

9 Mr. DOEK asked the delegation to explain the WHO statement that Malta had the lowest MMR (Measles, Mumps, Rubella) immunization rate in Western Europe. He also wished to know how easy it would be under the new Refugees Act for children of refugees in Malta to join their parents and whether they were in fact guaranteed the same rights as their parents.

10 Ms. FARRUGIA (Malta), replying to Ms. Karp, said the age of 16 as the cut-off age for protection had been imported from British legislation. In any event, the Juvenile Court sat in an informal setting: judges did not wear robes, a social worker was present, legal aid was available, and the parents had civil, rather than criminal, liability. As no life sentence had ever been handed down in respect of a child, the issue had been neglected. The juvenile court system placed children in programmes which addressed behavioural issues, with no idea of penalty. Hence mens rea was difficult to prove.

11 Regarding the reduction of a sentence by degree, each offence had a specific sentence and was reduced accordingly, the proportion of the reduction depended on the original sentence. Children might be issued with a care order and a programme devised to enable them to reintegrate into the family and society. Problems had been experienced in setting up a rehabilitation centre for boys. Premises had recently been found, but the authorities were still grappling with staffing difficulties. The current itinerary for young male offenders was via the police, judge and social worker. The system for girls was different and was proving successful: girls were placed in a personalized programme in which they received psychological counselling, social-worker attention and round-the-clock care.

12 Commenting on Ms. Rilantono's observation, she said the health authorities were addressing the alarmingly high diabetes level in Malta. Special diabetes clinics had been established and genetic screening services had been identified as a priority.

13 Concerning child labour, she believed there were more under-age working children than the 16 mentioned in the September 1999 statistics, as the labour inspectorate system in the country was very inadequate and children were expected to contribute to a family's business. However, as parents in Malta set high store by education, they were unlikely to encourage their offspring to engage in employment to the detriment of their schooling. A problem the authorities were attempting to combat was that of 15-year-old children in their last year of school, choosing to leave school and join the labour force. Specific regulations existed to prevent under-age children from working: for instance, the employer of a minor was subject to a dissuasively high fine in order to enable children to play, attend school and enjoy the benefits of a child's life. The delineating age of 16 was purely historical, the law stated that children were protected up to the age of 18.

14. Replying to Mr. Fulci and Ms. Tigerstedt-Tähtelä, she explained that the "Zazu" campaign had been launched to teach children that alcohol consumption was unacceptable. There were, however, children who attended discos or parties where they consumed beer. Although there was a wine culture in Malta, the society was not an alcoholic one; wine consumption was limited to a glass or two with meals.

15. Replying to a question by Mr. Doek, she said she was extremely surprised at the WHO statistics on MMR immunization, as the health service not only supplied MMR vaccine free of charge but sent reminders to parents. Malta had not yet had to address the issue of children of refugees, but she was confident that when the time came the procedure would be facilitated for them.

16. Ms. MOKHUANE asked in what circumstances a child could be indefinitely suspended from school, as stated in paragraph 244 of the report, and whether tobacco smoking was prevalent in Malta.

17. Ms. KARP said she was happy to learn that the Children Act protected all children under the age of 18 and that proceedings under it took place through the juvenile justice system. She was disturbed at the statement in the report that the prosecution must prove that a child aged 9-14 had committed an act with mischievous intent, as that would depend on each judge's interpretation rather than the specific protection to which a child was entitled. Nine was an extremely young age. Had consideration been given to the possibility of setting the age at 14? Apparently, the special Children's Panel that organized the programme for children could recommend that a child should attend a life-skills programme. Did Malta really have the resources and infrastructure to supply children with such a programme?

18. Ms. TIGERSTEDT-TÄHTELÄ wondered why parents were made civilly responsible for a child's offence. She also wished to know whether the age covered was actually 9-14. If so, did a child of 18, for example, pay damages himself?

19. Ms. FARRUGIA (Malta) said that she knew of only one case of indefinite suspension, a psychiatric case. There was no excuse for depriving children of needed attention by excluding them from school. Increased psychological support had been provided for children within the school programme, through the presence of educational psychologists and social workers.

20. For some reason, smoking was more prevalent among girls than boys. She could provide the Committee with relevant statistics at a later date. The information about children's activities had been gathered from answers to a questionnaire the children had been requested to complete. It should therefore be borne in mind that, when children said they consumed alcohol, they might be referring to a small quantity of alcohol in a mixed drink. The actual situation might not be as alarming as the results suggested.

21. Although children under 14 could be considered to have malicious intent, in practice they rarely became involved with the police. If they did they were usually issued a warning. In the case of repeat offenders, the parents were called in and requested to pay damages, regardless of the child's age, in accordance with the vicarious responsibility concept. The Children's Panel referred children to Fejda, a very costly tailor-made therapeutic programme for teenage girls. Its

success had led the Council of Europe to send a delegation to Malta in order to observe how it functioned. A similar programme was being envisaged for boys. However, the Panel did not send girls to prison. Young offenders could be detained up to 20 years of age. Detention centres provided counselling and psychological assistance and offered educational and sports facilities.

22. Ms. MOKHUANE asked about the society's attitude to children with mental problems. She would like to know what kinds of cases were received and what services provided by the residential psychiatric unit for children up to 17. Had the life-skills education programme to counteract stress been effective?

23. Ms. KARP said she failed to understand how a child under 14 (but over 9) could have mens rea and why parents' vicarious responsibility was confined to civil offences. As it had been stated that criminal charges were rarely brought against children under 14, why not change the law to adapt to the situation? The age of 9 was rather early to be subject to the criminal justice system. Would the Government consider raising the minimum age of criminal responsibility to 14 years?

24. She asked whether there was special regulations or practices for children with learning difficulties, including special school examination conditions.

25. Ms. FARRUGIA (Malta), referring to children with mental problems, said that a Young People's Unit (YPU) offering one-on-one attention assessed and treated children with psychiatric and psychological problems, but only for a short period. It was a last-resort centre, as there were other structures that dealt with such problems at an earlier stage. A care plan based on a careful study of the child's case was drawn up prior to admission, and a post-care study was also carried out to review the child's mental health. In terms of the integration of the mentally disabled into the community, most young people with mental health problems continued to be cared for by their families after they left home. However, a halfway house and sheltered housing facility existed.

26. Concerning life-skills education to defuse stress, school counsellors were available and a helpline had been placed at the students' disposal, especially at examination time, as examinations were crucial to a child's educational career. Programmes had also been established to help parents put examinations in perspective.

27. The Juvenile Court covered both civil and criminal jurisdictions, and not just criminal cases as was often the case in other countries. She would inform the Government of the Committee's concern about the low age of criminal responsibility. A considerable amount of assistance was available to disabled children. All children were screened at age 6 or 7 for any possible learning difficulties, but some did manage to escape attention.

28. Ms. KARP, acknowledging that it was sometimes difficult to decide to which court child-related cases should be assigned, asked where the line was drawn between the civil and family courts.

29. Ms. FARRUGIA (Malta) pointed out that there was a criminal aspect to certain family court issues, such as domestic violence. The Juvenile Court successfully covered both jurisdictions. There had been a suggestion that the relatively new Family Court should assume some aspects of the Juvenile Court's work.

30. The CHAIRPERSON invited Mr. Rabah (Country Rapporteur) to make preliminary concluding observations.

31. Mr. RABAH (Country Rapporteur) said the Committee was pleased with the constructive self-critical approach which the Government had adopted. The Committee welcomed the support offered by the police and civilian voluntary groups to victims of domestic violence, the hotline and Government shelter which had been established and the review of legislation on domestic violence. Commendable efforts had been made to improve the educational system, although the issue of bullying in schools remained to be addressed.

32. Nevertheless, a few concerns remained, including the State party's reservation to article 26 of the Convention on the Rights of the Child and the still unclear status of the Convention in domestic legislation. There was need for legislative amendment and the enactment of new laws to ensure full respect for the Convention. Concerning article 4 of the Convention, the report did not provide sufficient information on the implementation of a national plan of action for children, or on the budgetary allocations for children's issues.

33. He pointed out the lack of up-to-date figures, which the Committee would appreciate receiving in writing later on. The Committee regretted the lack of information on education and professional groups working with children. It was also concerned about the extremely low age of criminal responsibility, nine, and the fact that children between the ages of 9 and 14 could be considered to act with mischievous intent. The placement of 14 to 16-year-olds in institutions, not being a measure of last resort, constituted deprivation of liberty. The Committee was disturbed at the discriminatory nature of the terms "illegitimate" and "natural" children, with regard to inheritance rights in particular, and especially in the context of recent action taken by officials in an effort to stem illegal immigration. As far as special protection measures were concerned, there was a need to enact domestic legislation relating to unaccompanied asylum-seeking and refugee children.

34. More should be done to allow children to express themselves freely, in the family, care institutions and the justice system. With regard to civil rights and freedoms, children were not allowed sufficient participation in social institutions, including the family. It was not clear whether rules governing adoption in Malta were in keeping with the Convention's provisions, and Malta was not a party to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. It was necessary to conduct a study on the negative consequences of ill-treatment and sexual abuse of children within and outside of the family. He also pointed to the absence of information on available rehabilitation measures for child victims of abuse and neglect. Insufficient information had been provided about children with HIV/AIDS and about reproductive health education programmes.

35. The Committee was concerned that under-age children were allegedly employed during the summer vacation in family businesses and the tourist sector and pointed out that Malta was not a party to ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Measures taken to combat the commercial sexual exploitation of children were limited, which might be a reflection of the State party's lack of awareness in that regard. In closing, he expressed his desire for the welfare of the children of Malta.

36. Ms. FARRUGIA (Malta) thanked the Committee and said she would transmit the questions raised by the Committee to the Government and appropriate authorities. However, it would take time for changes to take root in the society. Children's issues were now being accorded priority attention, after the changes that had been made concerning the status of men and women. She was confident that the Committee's recommendations would be taken up.

37. The CHAIRPERSON commended the delegation on the way in which its replies had facilitated the Committee's consideration of the report. She noted the efforts already made by the Government but highlighted the outstanding issues of corporal punishment, medical treatment without parents' agreement and visits by children to detained parents. She hoped that new legislation would solve the problem of reunification of refugee families. In conclusion, she encouraged the Government to pursue its efforts to promote the rights of children in Malta.

The meeting rose at 4.10 p.m.